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EMERGENCY RULEMAKING TO § PUBLIC UTILITY COMMISSION
PROVIDE CUSTOMER PROTECTION §
RULES FOR CONTINUING SUPPORT § OF TEXAS
OF VICTIMS OF HURRICANE HARVEY §
§

**PETITION FOR EMERGENCY RULEMAKING TO PROVIDE
CUSTOMER PROTECTION RULES FOR CONTINUING SUPPORT OF
VICTIMS OF HURRICANE HARVEY**

**Texas Legal Services Center
Texas Ratepayers' Organization to Save Energy
City of Houston
AARP of Texas
One Voice Texas: Collaborative for Health and Human Services
Texas Association of Community Action Agencies**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

Texas Legal Services Center (TLSC), Texas Ratepayers' Organization to Save Energy (Texas ROSE), City of Houston, AARP of Texas, One Voice Texas: Collaborative for Health and Human Services, and Texas Association of Community Action Agencies hereby file this Petition for Emergency Rulemaking at the Public Utility Commission of Texas (PUC or Commission). This Petition seeks an emergency rule to Provide Customer Protection Rules for Continuing Support of Victims of Hurricane Harvey for one year after its adoption.¹ This emergency rule would apply to victims of Hurricane Harvey located in 39 Texas counties.²

¹ TLSC and Texas ROSE have previously petitioned for emergency rules. In 2006 we filed an emergency rule to continue security deposit waivers for victims of Hurricane Katrina. We filed emergency petitions prohibiting the disconnection of electric service for nonpayment during a declared heat emergency, which posed an imminent threat to the health, safety, and welfare of residential customers. The Commission adopted such a rule in August of 1998 and again in August of 2000. This led to the adoption of the current prohibition on disconnection during extreme weather PUC Subst. R. 25.483(j).

² Designated Counties: Aransas, Austin, Bastrop, Bee, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Hardin, Harris, Jackson, Jasper, Jefferson, Karnes, Kleberg, Lavaca, Lee, Liberty, Matagorda, Montgomery, Newton, Nueces, Orange, Polk, Refugio, Sabine, San Jacinto, San Patricio, Tyler, Victoria, Walker, Waller, Wharton

This Emergency Rule would apply to all hurricane Harvey Victims regardless of income. The storm will significantly impact and change the economic status of many victims as many lost wages or jobs and are taking on substantial debt to relocate or rebuild. Also, many victims may be required to take on substantial debt to rebuild. All affected customers need a post-Harvey break.

However, demographics indicate that large numbers of the people displaced by Harvey are in poverty or living paycheck to paycheck. According to the U.S. Census 15.6% of all Texans live in poverty. Another 12% of the Texas population is over 65 years of age.³ Data for Harris County show that over 585,000 households have incomes below 200% of the Federal Poverty Guidelines.⁴ In Houston the poverty rate is 22.5%, higher than the statewide average.⁵ Hurricane victims are inundating legal aid offices and social service agencies looking for help with legal matters, employment, utility bills, food and many other critical needs. Over 210,000 houses were damaged or destroyed. Housing is the greatest need and electricity is essential to meeting housing needs. The need for housing for everyone affected by Harvey is critical especially for low-income families and the elderly.

If granted the Petition would:

- clarify and assure that all emergency rules are applied to all residential customers, including prepaid customers,
- continue waivers of disconnections for non-payment, security deposit rules and fees as provided in the PUC Order supporting the Governor's Disaster Declaration and related memoranda,

³ <https://www.census.gov/quickfacts/fact/table/TX/AGE775216#viewtop>

⁴ Fisher, Sheehan and Colton, The home Energy Affordability Gap, 2016, April 2017.

⁵ <https://www.census.gov/quickfacts/fact/table/houstoncitytexas,US/PST045216>

- continue requirements for REPs to provide deferred payment plans to hurricane victims as provided in the PUC Order supporting the Governor's Disaster Declaration,
- specify conditions to be taken into account when estimating the bills of Harvey victims, and
- specify documentation customers can rely on to document that they are victims of Hurricane Harvey.

An emergency rule will provide certainty for electricity consumers working to recover their homes and their jobs and provide assurance that all customers are treated equally. We view this rule as a minimum standard to be met by the industry and we encourage individual companies to reach out to customers and be helpful in any way possible.

I. Background

On August 31, 2017 the Commission adopted an Order to Assist Implementation of the Governor's Proclamations Related to the Disaster Caused by Hurricane Harvey.⁶ To expedite the recovery effort the Governor's Declaration states that any "order or rule of a state agency that would in any way prevent, hinder or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor."⁷

In recognition of the widespread damage and flooding caused by Hurricane Harvey and to further recovery efforts and to ensure that affected customers can focus on recovery and returning to normalcy, on September 7, 2017 Texas-New Mexico Power Company, AEP Texas Inc., CenterPoint Energy Houston Electric LLC, and Entergy Texas Inc. each agreed to:

⁶ PUC Project No. 47552 Issues Relating to the Disaster Resulting from Hurricane Harvey, ORDER TO ASSIST IMPLEMENTATION OF THE GOVERNOR'S PROCLAMATIONS RELATED TO THE DISASTER CAUSED BY HURRICANE HARVEY, August 31, 2017.

⁷ PUC Project No. 47552 Issues Relating to the Disaster Resulting from Hurricane Harvey, DISASTER PROCLAMATION FROM THE GOVERNOR IN THE REFERENCED PROJECT

“1) Not process disconnections for non-payment through September 29 for residential premises, apartment houses, and mobile home parks in those counties within the utility's certificated service area that were directly affected by Hurricane Harvey; and 2) Not assess charges for move-ins, reconnection of service, disconnection requests where needed to perform repairs or assess damage through September 29 in the same affected counties.”⁸

We applaud the PUC for its timely response to customer needs in the immediate aftermath of Hurricane Harvey; however, we are disappointed that the agreed practices pertaining to disconnection, fees, and move-in and move-out policies have expired. The recovery is expected to take years. Officials are reluctant to predict how many years a full recovery will take. Yet residential customers, many of whom lost everything, including their jobs, are expected to get their lives back in order in less than thirty days. The PUC needs to step in and make sure that all electricity consumers have more time to rebuild their lives.

On September 29, 2017 the PUC extended the Order for retail electric providers (REPs) to offer deferred payment arrangements until October 12, 2017.⁹ However, the provisions regarding disconnection and reconnection and fees were allowed to expire. We believe all emergency provisions in the original Order must be extended for at least one year. Moreover, the Commission should clarify that the provisions apply equally to prepaid customers and the emergency rule should provide uniform standards for estimation of bills in circumstances where meters were inoperable due to the flooding.

⁸PUC Project No. 47552 ISSUES RELATING TO THE DISASTER RESULTING FROM HURRICANE HARVEY, MEMORANDUM TO INTERESTED PARTIES FROM BRIAN LLOYD September 7, 2017.

⁹ PUC Project No. 47552 ISSUES RELATING TO THE DISASTER RESULTING FROM HURRICANE HARVEY, ORDER EXTENDING THE COMMISSION'S PREVIOUS ORDER AS PER DEFERRED PAYMENT PLANS FOR ELECTRICITY CUSTOMERS, (PUC's September 29, 2017 Order)

II. Need for an Emergency Rule

The PUC acknowledges that hurricane victims will still need special consideration. In a PUC memorandum, the executive director stated, “[w]hile utilities in the affected area will begin processing DNPs after September 29, 2017, retail electric providers (REPs) should use their best efforts with their customers to avoid unnecessary disconnections by extending to them payment arrangements and deferred payment plans (DPPs). Additionally, Commission Staff will continue to work with retail electric providers and customers through the informal complaint process to determine where additional voluntary assistance is appropriate.”¹⁰ The PUC’s September 29th Order is insufficient. An Emergency Rule should be promulgated that addresses the issues raised in this petition for the industry to follow in regard to all hurricane victims.

The Federal Emergency Management Agency (FEMA) has approved individual assistance for residents affected by Harvey in 39 counties in southern Texas, with 35 reporting sustaining damage. Some counties may not yet have reported damage. The FEMA website reports that it has approved more than 286,009 individual applications, totaling more than \$689 million in assistance.¹¹ According to media reports, more than 660,200 individuals have applied for federal assistance from FEMA. This means that many people are still awaiting FEMA assistance.

FEMA reports that more than 210,700 homes — single-family, multiple-family and mobile — were damaged or destroyed. Officials estimate that at least 136,000 homes were damaged in Harris County alone. No one is sure when people will recover from the devastation of the storms. There is no official prediction of when recovery from Hurricane Harvey will be complete, only that it will take years.

¹⁰ PUC Project No. 47552 ISSUES RELATING TO THE DISASTER RESULTING FROM HURRICANE HARVEY, Memorandum to Interested Parties from Brian Lloyd, Executive Director, September 29, 2017

¹¹ <https://www.fema.gov/disaster/4332>

III. The Hurricane Recovery Period is Only Beginning

The FEMA website reports more than 14,900 survivors checked into hotels and motels through the Transitional Sheltering Assistance program.¹² At one point there were 37,000 people in shelters and over 16,000 rescues.¹³ By now the majority of these people have moved to a new address, often the home of a relative or friend. It is unlikely this address will be permanent. Most will be lucky if they only have to move one more time before they are permanently settled.

A major hurdle for evacuees trying to transition from shelters and uninhabitable homes to more permanent housing are credit deposits that utilities and REPs require as a condition of providing electric service which can equal the cost of two and a half months of service. Many evacuees who might otherwise have had the means to pay a deposit have also lost their jobs or weeks of wages due to the destruction. Many of the evacuees are seniors and simply do not have the financial means to pay a service deposit now that they are homeless.

The basis for adopting this emergency rule is compelling. Hurricane Harvey is the largest natural disaster in U.S. history. It had an enormous impact on Texas. Governor Greg Abbott issued a disaster declaration for Texas on August 25 and Texas has been approved for federal disaster aid from the Federal Emergency Management Agency (FEMA) to assist individuals and state and local governments in their efforts to assist evacuees. Our utilities and REPs provide a life sustaining, essential service and should conduct business in a manner that supports the recovery of families and individuals who lived in the disaster areas. An emergency rule governing the conduct of a utility company or REP toward a hurricane victim will assure that victims are treated fairly no matter the customer's REP of Record.

<https://www.fema.gov/news-release/2017/09/03/hurricane-harvey-snapshot>¹²

¹³ Ibid.

IV. Explanation of the Proposed Rules

Much of the disaster area is part of the competitive electricity market. Other areas are served by Entergy Texas which remains a fully regulated utility. This proposed emergency rule will cover both competitive REPs and Entergy Texas and would remain in effect for one-year after adoption. The need for a time extension can be determined before the rule expires.

Each of the major changes are explained briefly below.

A. Pre-Paid Customers

The Commission Orders are notably silent on the emergency provisions available to customers who buy electricity under a prepaid service plan. Because Texas does not collect information specific to prepaid service, there is no way to know how many of the victims were prepaid customers. Because prepaid plans are the least flexible in providing notice and extending credit we ask the Commission to clarify and assure that prepaid service providers are equally subject to the emergency rules.

B. Disconnection for Non Payment and Fees

The emergency rules being proposed would codify the short term agreement announced on September 7th to discontinue disconnection of service for nonpayment and to charge no fees through September 29th. These were helpful steps voluntarily undertaken by the industry. The only problem with the agreement is that it lasted an insufficient amount of time for a recovery effort to be measured in months and years not days. Therefore, the emergency rule will extend these agreements. Timing is critical; many customers displaced by Harvey are still in temporary housing and will need to move in the near future. Still others that have already moved once may have to move again, and maybe even a third time. The journey of the evacuees has just begun.

The emergency is not over for them. Therefore, the Commission must retain these protections until it is reasonably sure that the affected customers have transitioned to permanent or long term substitute housing.

C. Late Fees and Security Deposits

There were no uniform instructions provided by the commission in regard to late fees and security deposits. An information leaflet provided by Texas RioGrande Legal Aid for its clients shows that customers could not anticipate standard treatment or response from REPs in regard to late fees and security deposits. See Attachment 1. A uniform standard for all REPs to follow is in the best interests of Texas electric consumers.

While service to a meter has been restored for nearly all customers, most metering and billing problems caused by Harvey have not yet been resolved. Customers struggling with lost wages and expenses related to moving should not be charged late fees or security deposits as this will expedite recovery for the customer and the State of Texas.

D. Estimated Bills

After any weather event causing outages, especially those involving floods there is a gap in meter reading data. In most circumstances the missing data are estimated as there is no way to access the actual usage data. How data are estimated has been a frequent topic of discussion at the PUC. Our emergency rule strives to strike a balance by allowing the data to be estimated but asking that adjustments to average data be made based on the customer's hurricane experience. For example, if the customer fled a unit for higher ground there should be no estimated usage attributed to the days when the unit was unoccupied.

E. Documentation of Victim Status

Finally, the rule specifies the types of documentation that will substantiate victim status. The emergency rule is modeled after existing Commission rules that provide similar protections for persons displaced by family violence. For purposes of this rule, applicants would be able to demonstrate that they have been a victim of Hurricane Harvey by providing proof of prior residency in an affected area of Texas or other affected state; proof of application for federal, state, or local disaster assistance; proof of application for flood or casualty insurance coverage; or by showing that they are residing or have resided in a designated emergency shelter.

V. Statutory Authority

The Commission has the authority to adopt an emergency rule to protect victims of Hurricane Harvey under the following statutes:

- Section 14.002 of the Public Utilities Regulatory Act (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction;
- PURA § 32.001, which grants the commission exclusive original jurisdiction over the rates, operations, and services of an electric utility in areas outside a municipality and areas inside a municipality that has surrendered its jurisdiction to the commission;
- PURA § 39.101, which grants the commission authority to establish various, specific protections for retail customers; provides the PUC with jurisdiction over retail electric providers and electric utilities in enforcing the protections;
- PURA § 39.102, which provides for retail customer choice;

- PURA § 64.001, which establishes customer protection standards and confers on the commission authority to adopt and enforce its customer protection rules; and
- PURA Chapter 17, Subchapters A, C, and D, which deal, respectively, with general provisions relating to customer protection policy to be followed by retail electric providers and electric utilities, the retail customer's right to choice, and protection of the retail customer against unauthorized charges; and
- Section 2001.034 of the Administrative Procedure Act, which provides that a state agency may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and a hearing that it finds practicable, if the agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice.

VI. Proposed Text of Rule

Sec. XXXX Hurricane Harvey Emergency Rule:

- (a) Purpose: To assure that all victims of Hurricane Harvey have sufficient opportunity to obtain and reasonably maintain electricity service through the rebuilding efforts.
- (b) Applicability: The following rules apply to a residential electricity customer who takes prepaid or postpaid service or applies for prepaid or postpaid service from a competitive retail electric provide or a regulated utility in a county where the Governor declared a disaster resulting from Hurricane Harvey. A victim of Hurricane Harvey can be verified by providing proof of prior residency within one of these affected areas, proof of application for or receipt of federal disaster assistance from the Federal Emergency Management Agency or other federal, state or local disaster assistance related to damages suffered in one of these affected areas, or verification of residing or having resided in a

designated emergency shelter within Texas or one of these affected areas. All REPs and electric utilities shall notify all applicants for residential service of this provision. In determining whether an applicant qualifies as a victim of Hurricane Harvey for purposes of establishing satisfactory credit, the utility shall accept as proof any documentation submitted by the applicant from a federal, state, or local government agency or the American Red Cross that substantiates one of the conditions listed herein.

(c) A retail electric provider or electric utility will:

- (1) Not require a customer to post a security deposit or to require any form of financial security as a condition of service.
- (2) Not charge fees relating to disconnections such as “disconnection notice fees”, “disconnection recovery fees”, and “reconnection fee”.
- (3) Not charge fees related to early cancellation of service.
- (4) Not charge a residential customer a penalty or late fee on delinquent bills for electric service provided to the customer’s service address.
- (5) Not report any late payments by the residential customer to credit reporting agencies or to such other services whose use is to hinder the customers’ access to goods and services.
- (6) Expedite move-in and move-out transactions.
- (7) Offer customers who owe for back bills a deferred payment plan. A deferred payment plan implemented under this paragraph may not have an initial payment greater than 20% of the amount due and shall provide for equal installments for the remainder of not less than eight billing cycles. This subsection can be waived if the

customer agrees to a greater initial payment and/ or less installments in writing that includes notice of this paragraph.

(8) Offer a deferred payment plan to a residential customer, upon request or when he/she expresses an inability to pay his/her bills. A deferred payment plan implemented under this paragraph may not have an initial payment greater than 20% of the amount due and shall provide for equal installments for the remainder of not less than eight billing cycles. This subsection can be waived if the customer agrees to a greater initial payment and/ or less installments in writing that includes notice of this paragraph.

(9) Establish a methodology for estimating usage that is applied consistently from customer to customer. Estimated bills shall take into consideration the disruptions of service caused by the hurricane and its aftermath; the abandonment of the resident unit by that customer, voluntarily or involuntarily; any government orders to disconnect service; and such other factors that could overstate usage at that service address.

(d) This emergency rule is effective until one year from the date of publication.

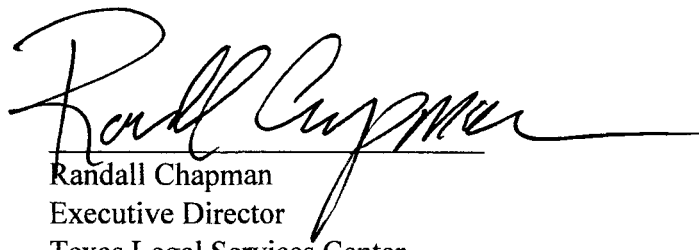
VII. Summary and Conclusion

The emergency rule requested here is a lifeline for many victims of Hurricane Harvey who need to acquire or maintain electric service in their homes. FEMA recorded the Hurricane Harvey Incident Period from August 23, 2017 - September 15, 2017. The Commission Order that has now expired was in effect for only 14 days after the largest natural disaster in U.S. history. How can we expect people to who suffered irreparable damage to have their utility accounts in order when the agencies they rely on for help won't be ready for months? "State

lawmakers were told Monday that Housing and Urban Development disaster relief funds, which includes money for extensive home repairs or rebuilds, could take seven to 32 months.... State officials told lawmakers that immediate FEMA payments are for homes that are up to 50 percent damaged. Long-term HUD disaster relief funds cover homes damaged beyond that threshold, they said."¹⁴ FEMA also has a lot of catching up to do. "As of Sunday night, about 460,000 Texas households are still waiting to hear back after registering for FEMA assistance."¹⁵

Allowing utilities to disconnect service and charge fees and security deposits to customers who have had their homes ruined and even lost their jobs due to the destruction of Hurricane Harvey is not in the public interest. What is in the public interest is to give displaced fellow Texans the time they need to find a place to live, get back to their jobs and receive available assistance and insurance proceeds to help them get back on their feet. We urge the Commission to grant our petition to provide electric utility relief to Hurricane Harvey victims.

Respectfully Submitted:



Randall Chapman
Executive Director
Texas Legal Services Center
2101 Interstate 35 South, Suite 300
Austin, Texas 78741
512-477-6000

Carol Biedrzycki
Executive Director
Texas Ratepayers' Organization to Save Energy
2101 IH-35 S Suite 300
Austin, Texas 78741
512-472-5233

¹⁴ Brandon Formby, Texas Tribune, Oct. 2, 2017

¹⁵ Florian Martin, Houston Public Media, October 2, 2017

Robert Jackson
AARP Texas Office
98 San Jacinto Blvd., Suite 750
Austin, TX 78701
512-480-9797

Alisa Talley,
CITY OF HOUSTON, TEXAS
Division Manager
Administration & Regulatory Affairs
611 Walker, 13th Floor
Houston, TX 77002
(832) 393-8531
(832) 393-8527 fax
BUSINESS REPRESENTATIVE FOR THE CITY OF HOUSTON,
TEXAS

Jacqueline Pontello, J.D.
Executive Director,
One Voice Texas: Collaborative for Health and Human Services
710 N. Post Rd.
Houston, TX 77024
(713) 333-2232

Stella Rodriguez
Executive Director
Texas Association of Community Action Agencies
4029 S. Capital of Texas Hwy., Suite 115,
Austin, Texas 78704
(512) 462-2555

Utility Service after Disaster

How can I find out if the power is out in my area? Check the [Texas Public Utility Commission's](#) links to utility [outage maps](#). Note: The PUC does not regulate cable TV, phone service (including mobile), water, or natural gas. Contact your provider.

Can I defer payment for my electricity bill? When the governor declares a disaster area, PUC rules require electric companies to offer a deferred payment plan and inform you about it (even if you already have one). Call your utility company directly and ask. If they won't defer, call the PUC at 1-888-782-8477 to file a complaint, or email customer@puc.texas.gov. State that you are a disaster survivor in the subject line.

Electric Company	Waiver of Late Fees/Deposit Until	Contact Number
TXU	September 30, 2017	1-800-242-9113
Reliant	September 30, 2017	713-207-7777 or 1-866-222-7100.
Discount Power	September 30, 2017	713-423-6970
Entrust Energy	September 5, 2017	800-871-8100
CenterPoint Energy (HTX)	September 30, 2017	713-207-2222; 1-800-332-7143
Texas New Mexico Power		888-866-7456 option 2
AEP		1-866-223-8508
Direct Energy	October 2, 2017	1-855-200-3748
Victoria Electric Coop		361-573-2428
Champion Energy	September 30, 2017	1-877-653-5090
Nueces Electric Cooperative		1-800-632-9288

Will I be charged for temporary disconnection/reconnection? Fees for disconnection and reconnection are waived where needed in order to repair structures damaged by the disaster.

We weren't using electricity due to evacuation. Why does my bill look high? Electric providers can base your bill on estimated use; this should be noted on your bill. Look at the PUC's information page about [charges on your electric bill](#). Ask your utility company to give you accurate billing information rather than estimated use.

What if I can't pay in person/by mail? If you are in a declared disaster area, fees for online payment or by phone are waived. If you usually pay by mail, check the USPS website for [service disruption alerts](#) and to see if your [post office is open](#). Or, sign up for the USPS [hold mail service](#). Contact the USPS at 1-800-275-8777.

Can I get help paying my electric bill? Maybe. It depends on your eligibility and available resources. Contact the [Texas Low Income Home Energy Assistance Program](#) or one of these organizations:

Organization	Counties Served	Phone
Nueces Co. Community Action Agency	Nueces	361-883-7201
Galveston Co. Community Action Council	Galveston and Wharton	409-765-7878
Catholic Charities	Harris, Galveston	1.866.649.5862
Fort Bend Co. Social Services	Fort Bend	281-238-3502
Baker-Ripley	Harris	713-667.9400
Crisis Assistance Center	Montgomery	936-539-9211
Community Action Corp. of South Texas	Aransas, Brooks, Duval, Jim Hogg, Nueces, Starr, Willacy, Bee, Cameron, Hidalgo, Jim Wells, Kleberg, San Patricio, Webb, Zapata	361-664-0145
Community Action Council of South Central Texas	Atascosa, Bandera, Comal, Dimmit, Edwards, Frio, Gillespie, Guadalupe, Karnes, Kendall, Kerr, Kinney, LaSalle, Live Oak, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson, and Zavala	830-303-4376
Community Action Committee of Victoria	Calhoun, DeWitt, Goliad, Gonzales, Jackson, Lavaca, Victoria	361-578-2989

DISASTER RELIEF